



STATE OF NEW JERSEY

**FINAL ADMINISTRATIVE ACTION
OF THE
CIVIL SERVICE COMMISSION**

In the Matter of Building Inspector
(M0111W), Middle Township

Appointment Waiver

CSC Docket No. 2019-1274

ISSUED: JANUARY 18, 2019 (HS)

Middle Township requests permission not to make an appointment from the May 15, 2018 certification for Building Inspector (M0111W).

The record reveals that the appointing authority initially requested an eligible list in order to fill a vacancy for the title of Building Inspector. As a result, an examination for the title was announced with a closing date of January 22, 2018. Three of the applicants were admitted to the examination, which was processed as a qualifying examination, *i.e.*, applicants who met the announced requirements were given the same score, except that veterans, if any, were ranked first. The resulting eligible list of three names promulgated on May 10, 2018 and expires on May 9, 2021. On May 15, 2018, the names of all three non-veteran eligibles were certified from the eligible list. Subsequently, the appointing authority requested an appointment waiver. In its request, the appointing authority indicated that upon review of the budget and the costs of employing a full-time Building Inspector, it realized that the appointment would not be cost-effective and abandoned the idea. The appointing authority states that it is unfortunate that it did not appreciate the monetary savings of the non-appointment until after the eligible list had been requested.

The appointing authority's request for an appointment waiver was acknowledged, and it was advised that if its request were granted, it could be assessed for the costs of the selection process in the amount of \$2,048. In response, the appointing authority reiterated its reason for not making an appointment and requested that costs not be assessed.

Agency records indicate that currently there are no individuals serving in the subject title with the appointing authority.

CONCLUSION

In accordance with *N.J.S.A.* 11A:4-5, once the examination process has been initiated due to the appointment of a provisional employee or due to an appointing authority's request for a list to fill a vacancy, the appointing authority must make an appointment from the resulting eligible list if there are three or more interested and eligible candidates. The only exception to this mandate may be made for a valid reason such as fiscal constraints.

In this matter, the examination for the subject title was generated as a result of the appointing authority's request for an eligible list to fill a vacancy. However, after a complete certification was issued, the appointing authority indicated that no appointment would be made due to budgetary constraints. Moreover, there is no one currently serving in the subject title with the appointing authority. Accordingly, based on the foregoing circumstances, there is sufficient justification for an appointment waiver.

Although the appointment waiver is granted, both *N.J.S.A.* 11A:4-5 and *N.J.A.C.* 4A:10-2.2(a)2 state that if an appointing authority receives permission not to make an appointment, it can be ordered to reimburse the costs of the selection process. While administering examinations and providing the names of eligible job candidates to the jurisdictions under the Civil Service system are two of the primary activities of this agency, these costly efforts are thwarted when appointing authorities fail to utilize the resulting eligible lists to make appointments and candidates have needlessly expended their time, effort and money to take these examinations in hopes of being considered for a permanent appointment. In the instant situation, although a valid reason exists for not making an appointment from the subject eligible list, the appointing authority has failed to provide a sufficient basis for not being charged for the costs of the selection process that produced the subject eligible list. In this regard, *N.J.S.A.* 11A:4-5 and *N.J.A.C.* 4A:10-2.2(a)2 allow for the assessment of such costs even where an appointment waiver is granted based on an appointing authority's fiscal constraints. Therefore, it is appropriate that the appointing authority be assessed for the costs of the selection process.

ORDER

Therefore, it is ordered that the appointment waiver be granted. Additionally, the Civil Service Commission orders that the appointing authority be assessed for the costs of the selection process in the amount of \$2,048 to be paid within 30 days of the issuance of this order.

This is the final administrative determination in this matter. Any further review should be pursued in a judicial forum.

DECISION RENDERED BY THE
CIVIL SERVICE COMMISSION ON
THE 16TH DAY OF JANUARY, 2019



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